FILED
JUL 1 1976
MICHAEL RODAK, JR., CLERK

In The

Supreme Court of the United States

October Term, 1975

No. 75-1608
Docketed 5-4-76

R. FISKE WHITNEY,

Petitioner,

vs.

VIRGINIA BRANN and HERBERT BRANN,

Respondents.

PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT AND APPENDIX

R. FISKE WHITNEY
Petitioner Pro Se
414 East 75th Street
New York, New York 10021
(212) 879-3500

(9702)
LUTZ APPELLATE PRINTERS, INC.
Law and Financial Printing
South River, N.J. (201) 257-6850 | New York, N.Y. (212) 563-2121 | Philadelphia, Pa. (215) 563-5587 | Washington, D.C. (201) 783-7288

TABLE OF CONTENTS

Page

Petition for Rehearing of Order Dated June 7, 1976 on Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit 1

TABLE OF CITATIONS

Case Cited:

Schriber Co. v. Cleveland Trust Co., 305 U.S. 50 4

APPENDIX

Appendix A 1a

In The

Supreme Court of the United States

October Term, 1975

No. 75-1608
Docketed 5-4-76

R. FISKE WHITNEY,

Petitioner,

vs.

VIRGINIA BRANN and HERBERT BRANN,

Respondents.

PETITION FOR REHEARING OF ORDER DATED JUNE 7, 1976 ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Petitioner, R. Fiske Whitney, *Pro Se,* respectfully requests a rehearing of his petition for a writ of certiorari for two reasons:

(1) Due to no fault or act of commission or omission by petitioner, essential adjuncts to his petition namely the printed record, the three briefs in the appeal below, a motion to strike and the docket sheets, all in the circuit court appeals, were not transmitted to this Court in time for conference consideration, thus prejudicing the petition; and

POOR COPY

ROUGH

(2) The wilful wrong acts of the United States Court of Appeals for the Third Circuit in promoting the above improper situation add graphic proof that petitioner has been dealt with unfairly in the lower courts, has been deprived of his rights under the Constitution, as argued in his petition for certiorari and as proved by the missing record and other documents, and that there has been a *conspiracy to cover up* these wrongings of petitioner.

Petitioner, by letter dated May 13, 1976 (Appendix A) with proper check enclosed, requested certification and transmittal to this Court of the documents excepting only the unavailable "order granting motion to strike" with instructions, never in any way modified, to "rush and not delay" the main certification and transmittal. On May 28, 1976 petitioner discovered that no transmittal of any documents had been received by the Clerk of your Court, and that this petition was to be conference considered on June 3, 1976.

At or about 2:00 P.M., May 28, 1976, Miss Robinson in the office of the Clerk of the United States Court of Appeals for the Third Circuit told the writer over the phone that all the requested documents except the joinder of opposing counsel in petitioner's motion to strike would be sent out to your Court that afternoon and that transmittal of the joinder would be delayed only until receipt of a $2.00 check to be expected June 1. Petitioner, traveling, mailed the confirming hand printed letter dated May 28, 1976, which is in your Court's file.

When about noon, June 3, 1976 no transmittals had been received, your Mr. Frank Lawson said he would have the mail wrappers kept when the papers arrived. A few days later upon finding these wrappers missing from your file, Mr. Lawson said "unfortunately she did not keep it . . . she was told to keep it." The letter in the file transmitting the printed record, the three briefs, the motion to strike and the dockets was dated May 28, 1976 and was stamped by your Court "Received June 7, 1976,"

BLEED

ten days after the date on the letter of transmittal, ten days after the date on which, having wrongly delayed this main transmittal, and knowing the urgency, Miss Robinson (B.J.R.) said she would immediately rush out the papers by fastest mail to your Court. Petitioner mailed forty (40) copies of his supplementary petition from Gainesville, Florida after 5:00 P.M. June 1, 1976. The wrapper was stamped received by your Court, June 3, 1976.

The twenty four days , fifteen days plus nine days of wilful delaying in transmitting the record proves that some person or persons in control wanted to prevent the Supreme Court from seeing the record.

The letter transmitting the less important joinder was dated June 2, 1976, and it was stamped by your Court "Received June 3,1976." There appears to have been a conspiracy to deprive petitioner of his proper right to have the main substantiating, and supporting documents properly available to your Court for conference consideration. It would appear that the person in your Court who disregarded Mr. Lawson's instructions to retain the wrappers may have so acted in conspiracy with the circuit court's office to conceal postmark dates.

Petitioner's main appeal brief specifically documented fifty (50) charges of bias and misstatement of evidence statedly relied on in the district court's arrival at a verdict, in connection with that half-day trial, an almost incredible volume of bias and misrepresentation of testimony. The transcript of trial record and the seriatim documenting of the fifty unanswered and undenied charges were needed by your Court to distinguish over fifty true grave charges, including charges of an attempted coverup, from what might be considered wild ravings of a *Pro Se*.

The brief for appellees did not deny, discuss, or even answer a single one of those fifty grave charges. The circuit court allowed no oral argument, affirmed without opinion, covered up, and hindered this Court's apprehension of the wrongs.

POOR COPY

HROUGH

Petitioner notes that in *Schriber Co. v. Cleveland Trust Co.*, 305 U.S. 50, this Court took judicial notice of the effect of "the concentration of the automobile industry in the sixth circuit."

Petitioner respectfully requests that this Court take judicial notice of the concentration of a large law firm of opposing counsel, and a branch of INA, Inc. in Wilmington and the concentration of INA, Inc.'s home office and main operation center in Philadelphia, seat of the Third Circuit.

A lone *Pro Se* must depend upon the United States Supreme Court for protection in the federal courts of his constitutional rights to a jury trial, a fair trial and an unhindered appeal to your Court, because only your Court has the power of supervision over the lower courts.

In light of these new developments, and so that the coverup of all these wrongs may not be furthered, this petition for rehearing of the petition for a writ of certiorari should be granted.

Respectfully submitted,

s/ R. Fiske Whitney
Petitioner Pro Se

Dated: New York, N.Y.
June 28, 1976

APPENDIX A

R. FISKE WHITNEY
414 East 75th Street
New York, N.Y. 10021

May 13, 1976

Mr. Thomas F. Quinn, Clerk
United States Court of Appeals
for the Third Circuit
21400 United States Courthouse
Independence Mall West
601 Market Street
Philadelphia, Pa. 19106

Re: R. Fiske Whitney, Appellant vs. Virginia Brann, et al.
Nos. 75-1371 and 76-1044

Dear Mr. Quinn:

Thank you for your letter of May 10, 1976.

Enclosed please find my check for $4.50 as requested for certification fees. Please rush the certification and transmitting of the record.

I shall look into the matter of the "order granting motion to strike" and will correspond with you at a future date about it.

Please do not delay the main certification of the record and thank you.

Very truly yours,

R. Fiske Whitney

c.c.: Richard W. Pell, Esquire
Tybout & Redfearn
P.O. Box 2092
Wilmington, Delaware 19899